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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,954

04/16/2007

Augusto Ribolzi

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WHIRLPOOL PATENTS COMPANY - MD 0750  
500 RENAISSANCE DRIVE - SUITE 102  
ST. JOSEPH, MI 49085

EXAMINER

SULLIVAN, MATTHEW J

ART UNIT

PAPER NUMBER

4136

MAIL DATE

DELIVERY MODE

05/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,954	<b>Applicant(s)</b> RIBOLZI ET AL.	
	<b>Examiner</b> Matthew J. Sullivan	<b>Art Unit</b> 4136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/15/06</u> .                                                 | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

Claim 9 contains the trademark/trade name "Teflon". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe self-lubricating material and, accordingly, the identification/description is indefinite.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Regarding claim 1**, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by

"or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

**Regarding claim 3**, Applicant claims (in Claim 3) that the "screw means" can be used to adjust the "height of said support roller". Although relative translation of physical bodies can be described with respect to any reference frame it is generally accepted that casters such as the claimed invention that translation be described with reference to the floor on which the caster rolls. Therefore, the "screw means" would be judged to change the height of the refrigerator, freezer, cabinet or other general chassis to which the caster is coupled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**4. Claims 1-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb, U.S. Patent 3,437,346 (4/8/69) in view of Svenvig, U.S. Patent 957,480 (5/10/10).**

Cobb '346 teaches a dynamic support means (22) for a refrigerator (Col 1, Lines 20-24) comprising a support roller (46) presenting a horizontal rotation axis (48).

Cobb '346 does not teach a vertical swivel axis perpendicular to the horizontal

swivel axis where the axes intersect each other. Svenvig '480 does teach a roller (15) with a horizontal rotation axis (see figs. 1-4) and a vertical swivel axis (see figs. 3 and 5) characterized in that the rotation axis and swivel axis intersect each other; **[Claim 1]**. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide Cobb '346 with the features as taught by Svenvig '480 because multiple rotational axes would give the user more degrees of freedom to adjust the position of the refrigerator.

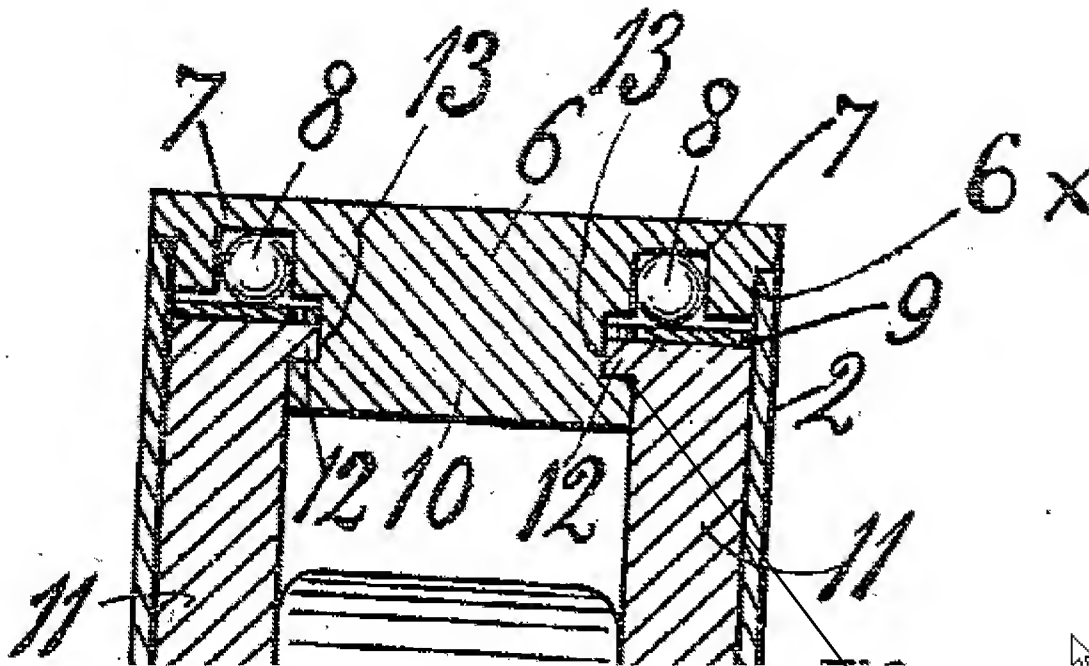
Regarding **Claim 2**, Svenvig '480 further teaches a rotation axis and swivel axis that intersect at an intermediate point of the roller (see fig. 3).

Regarding **Claim 3**, Cobb '346 further teaches a screw means (72) for adjusting the height of the support roller (46).

Regarding **Claim 4**, Svenvig '480 further teaches a dynamic support means (Fig. 1) comprising a rotary element (11) and a stationary element (6) rigid with the appliance, the elements rotating mutually about the swivel axis.

Regarding **Claim 5**, Svenvig '480 further teaches an annular appendix (12) on the rotation element (11) arranged to cooperate with an annular groove (13) to center the two elements.

Regarding **Claim 6**, Svenvig '480 further teaches the annular groove and annular appendix present steps (see below) for elastic constraint between the rotary element (11) and the stationary element (10).



Steps in annular groove and annular appendix

Regarding **Claim 10**, Svenvig '480 further teaches the support roller (15) rotating idly about a shaft (14) engaged in holes (see fig 6.) provided in projections extending lowerly from the rotation element (11, see fig. 6).

5. **Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb '346 and Svenvig '480 as applied to claims 1-6 and 10 above, and further in view of Raffaeli, U.S. Patent 4,554,704 (11/26/85).**

All the aspects of the instant invention are disclosed above but for projections of self-lubricating material present between the stationary element and the rotation element and that self-lubricating material being Teflon. Raffaeli '704 does teach

projections of self lubricating material (fig. 1, 16, 17) present between a stationary element (15) and a rotating element (21), see Abstract; **[Claim 8]**. Raffaeli '704 further teaches Teflon, Impreglon, Everlube and Delrin as self-lubricating material; **[Claim 9]**. At the time of the invention it would have been obvious to one of ordinary skill in the art to combine Cobb '346 and Svenvig '480 with the features as taught by Raffaeli '704 because self-lubricating materials would not require maintenance to replenish liquid lubricant. The listed materials are well-known self-lubricating materials.

### ***Allowable Subject Matter***

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Sullivan whose telephone number is 571-270-5218. The examiner can normally be reached on Monday-Friday, 7:30-5:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4136

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew J Sullivan/  
Examiner, Art Unit 4136

/J. Allen Shriver/  
Supervisory Patent Examiner, Art Unit 4136